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**NAVAL WAR COLLEGE
Newport, R.I.**

**BUILDING THE RIGHT FRAMEWORK FOR EFFECTIVE MULTINATIONAL ANTI-
PIRACY OPERATIONS IN THE GULF OF ADEN**

by

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**A paper submitted to the Faculty of the Naval War College in partial satisfaction of
the requirements of the Department of Joint Military Operations.**

**The contents of this paper reflect my own personal views and are not necessarily
endorsed by the Naval War College or the Department of the Navy.**

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ABSTRACT

As worldwide awareness of the maritime piracy dilemma increases, pressure mounts on the international maritime organizations to engineer a quick and effective solution. Numerous United Nations Security Council resolutions have been published pressing for international response, yet not many have offered specific guidance regarding what this response should look like. This paper looks generally at high-level UN guidance and shows at the theater-strategic and operational levels what the response(s) have been to date. It further analyzes what pieces of these responses have a place in the ideal, long-term solution and where these pieces would fit into an overall, integrated international solution. Finally, the paper draws conclusions on the maritime facet of the fight against piracy and proposes interface points for U.S. combatant commanders and their subordinates.

INTRODUCTION

The recent case of piracy on M/V *Maersk Alabama*¹ and the subsequent extraordinary rescue of its captain have catapulted the issue of multinational anti-piracy efforts into the lexicon of the average American. While anti-piracy efforts in the United Nations arena have been ongoing for decades, the notoriety generated by the *Maersk Alabama* and other high-profile cases is helping to fuel public pressure for a solution.

The Gulf of Aden is today one of the world's hot spots, if not the hottest spot, for piracy. In 2008, 111 vessels were hijacked² resulting in paid ransoms exceeding \$20 million USD – by pirates coming from countries where 25¢ can buy dinner³. And the facts are sobering – in the first quarter of 2009 alone piracy incidents from Somalia have nearly doubled from the same period in 2008.⁴ This highly lucrative venture on the part of the pirates is exacerbated by the fact that there is little to no repercussion – if they are caught (and that probability is unfortunately low) then the international community is unlikely to proceed with prosecution due to the lack of a mutually-agreed upon course of action⁵. The UN Convention on the Law of the Sea (UNCLOS) states:

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried

¹ CNN.com, "Shipmates Recount Battle with Pirates, Call Captain Brave," *CNN*, April 16, 2009, <http://edition.cnn.com/2009/US/04/16/maersk.crew/index.html> (accessed April 20, 2009).

² James Kraska, "Fighting Piracy," *Armed Forces Journal*, February 2009: p. 10.

³ David Axe, "Defeating Somali Pirates on Land: The Kenya Connection," *Proceedings*, March 2009.

⁴ International Maritime Bureau, "Piracy Attacks Almost Doubled in 2009 First Quarter," *International Chamber of Commerce - Commercial Crime Services*, April 21, 2009, http://www.icc-ccs.org/index.php?option=com_content&view=article&id=350:piracy-attacks-almost-doubled-in-2009-first-quarter&catid=60:news&Itemid=51 (accessed April 28, 2009).

⁵ Phil M. Davies, "International Piracy on the High Seas," in *FDCH Congressional Testimony, House Transportation and Infrastructure* (London, 2009), p. 7.

out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.⁶

Therefore, for those willing to undertake the costs involved, pirates placed under arrest by a proper authority can be tried in the capturing state's courts – provided the capturing state is willing to foot the bill, which most are not. Regionally, Somalia and Yemen have weak or nonexistent governments, and thus there is no real accountability in those countries. A few navies patrolling the area have made arrangements to relinquish custody of pirates to Kenya. But the vast majority of patrolling countries have no political will to engage in such an arrangement, resulting in capture, interrogation, and release (disarmed) as happened twice recently with the Canadian and Dutch navies⁷.

As the international community searches for a solution to the increasingly expensive and troublesome problem, shipping and insurance costs rise. In addition millions are spent on ransoms, which shipping companies seem willing to pay. As long as there are ransoms being paid without any real risk to the pirates, the problem will persist and flourish.

In response, a variety of multi-national organizations are (and have been) cropping up to address the problem. While well-intentioned, many of them possess only a piece of the solution and/or were designed to have only limited capacity. Moreover, several only include limited coalitions that do not provide for the inclusion of non-traditional players (China, Russia, etc.) in the anti-piracy effort.

⁶ United Nations, *Convention on the Law of the Sea* (UN, 1982), Article 105.

⁷ BBC News, "NATO Foils Somali Pirates' Attack," *BBC News Africa*, April 19, 2009, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/8006827.stm> (accessed April 19, 2009).

This paper examines several organizations that currently participate in the anti-piracy effort, identifies attributes of these organizations that would be useful in an ideal solution, highlights the difficulties of creating such a solution, and shows how U.S. combatant commanders might interface with the solution. In other words, looking at what the international community can offer, what international context holds greatest promise for effective multinational anti-piracy operations?

BACKGROUND

In this portion of this paper I examine several organizations that play in the overall maritime anti-piracy effort, broadly considering attributes of each. Analysis of each organization/agency is not exhaustive, but addresses qualities important to the scope of this research paper.

International Maritime Organization (IMO)

The IMO is a United Nations agency established in 1959. It has 166 member states and 2 associate members, representing the largest conglomeration of states organized for maritime purposes. While much of what the IMO does concerns safety regulations⁸ of today's cargo and bulk carriers, piracy is in fact a major concern and the IMO has created a committee on the matter as an advisory group.

As the IMO is primarily involved in regulation, it has no role in operational control of an anti-piracy task force.⁹ IMO's massive state participation and commercial shipping industry representation underwrites significant IMO capacity to coordinate

⁸ For example, the Safety of Life at Sea (SOLAS) convention.

⁹ James Kraska, "Piracy: The Coalition is the Strategy" (Newport, RI: U.S. Naval War College, March 17, 2009).

with the UN Security Council to tackle problems with well thought-out and coordinated solutions in mind.

Maritime Security Center Horn of Africa (MSC(HOA))

MSC(HOA) serves mariners by tracking and reporting commercial vessels.¹⁰ It maintains a database of “vulnerable shipping” created with the help of commercial shipping companies willing to release transit plans of their vessels via a secure website. This organization was created by the European Union and is part of a larger EU naval mission, operation ATALANTA.¹¹

The MSC(HOA) mission is to act as a single point of contact for those vessels who register their transits with MSC(HOA). MSC(HOA) tracks these vessels through the troubled waters of the Gulf of Aden, coordinating with EUNAVFOR and/or CTF 151 forces as appropriate in the event of an incident. Additionally, as of February 2009 MSC(HOA) publishes the Internationally Recognized Transit Corridor (IRTC) which attempts to focus military patrols (air and surface) along a dynamic route made available to commercial shipping through MSC(HOA)’s secure website.¹²

Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)

As captured in its name, ReCAAP is organized primarily among Asian states and today boasts of sixteen members: People’s Republic of Bangladesh, Brunei Darussalam,

¹⁰ Maritime Security Center Horn of Africa, *About*, Lloyd’s Register - Fairplay, <http://www.mschoa.org/About.aspx> (accessed April 9, 2009).

¹¹ Operation ATALANTA is a EUNAVFOR mission and as of this writing has forces assigned from eight EU member countries. It coordinates with CTF 151 anti-piracy efforts, though no published information could be located to document the extent of this coordination.

¹² ICC Commercial Crime Services, “Piracy Prone Areas and Warnings,” *ICC Commercial Crime Services*, April 28, 2009, http://www.icc-ccs.org/index.php?option=com_content&view=article&id=70&Itemid=58 (accessed April 28, 2009).

the Kingdom of Cambodia, the People's Republic of China, the Republic of India, the Republic of Indonesia, Japan, the Republic of Korea, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, and the Socialist Republic of Viet Nam.¹³ Primarily an information sharing organization, ReCAAP also conducts periodic exercises among member states.

Because its members range from India in the west to Japan in the east – an immense stretch of ocean – and encompass many dense traffic lanes (e.g., Strait of Malacca) timeliness of information sharing is crucial and hence a streamlined approach to reporting was implemented at the initiation of ReCAAP. It serves primarily as a web-based information conduit, conveying information to affected member states (in the event of an incident) and controls no forces directly.

ReCAAP has a very robust data analysis capability. In its 2008 Annual Research Report¹⁴ it looks very closely at areas of high piracy activity, what types of vessels were targeted, and under what circumstances. Based on this information – predicated on the conclusions ReCAAP analysts draw from the data they collect – shipping companies have an additional tool available, enabling them to re-route vessels transiting high-risk areas. At a minimum, this data provides a starting point from which to consider the risks incurred by transiting certain areas.

¹³ Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP), *About ReCAAP Information Sharing Centre*, http://www.recaap.org/index_home.html (accessed April 6, 2009).

¹⁴ Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP), "2008 Annual Research Report," *ReCAAP ISC*, 2008, http://www.recaap.org/incident/pdf/publications/2009/AR08_O_230109v2.pdf (accessed April 18, 2009).

International Chamber of Commerce – Commercial Crime Services (ICC-CCS) and the International Maritime Bureau (IMB)

Similar in operation to ReCAAP, the IMB's Piracy Reporting Center (PRC) is a non-profit organization and has been in operation since 1992 and operates from Kuala Lumpur, Malaysia. It maintains a 24-hour watch on the world's busiest shipping lanes. Like ReCAAP, its primary mission is to serve as a reporting center for mariners and then pass information to local law enforcement.¹⁵ Data from these reports is fused and used in several different ways.

IMB's PRC maintains a real-time world in-progress piracy map.¹⁶ This information feeds indirectly into their "Piracy Prone Areas and Warnings", a service offered to "...raise awareness within the shipping industry, which includes the shipmaster, ship-owner, insurance companies, traders, etc, of the areas of high risk associated with piratical attacks or specific ports and anchorages associated with armed robberies on board ships".¹⁷ Again similar to ReCAAP, this service provides mariners with a powerful planning and decision making tool.

The PRC releases periodic piracy reports quarterly and annually.¹⁸ These reports are replete with diligently and thoroughly analyzed data collected over the course of the year (or quarter, as appropriate). These reports contain an analysis of each individual act of piracy or armed robbery as well as groupings of similar crimes based on location, time of year, status of ship (moored, anchored, underway).

¹⁵ ICC Commercial Crime Services, *IMB Piracy Reporting Centre*, http://www.icc-ccs.org/index.php?option=com_content&view=article&id=30&Itemid=12 (accessed March 28, 2009).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid, quarterly and annual reports available by request (delivered by email) via IMB Piracy Reporting Centre's website.

Extrapolation from these reports by commercial shipping entities and anti-piracy organizations (both at sea and port law enforcement) provides a target set for efforts to those already resource-limited.

Maritime Organization of West and Central Africa (MOWCA)

Originally chartered in 1975, MOWCA emerged in its current form in 1999 and comprises 25 member states on the west coast of Africa from Mauritania south along the coast to Angola – including five landlocked countries. Headquartered in Abidjan, Côte d’Ivoire, the member nations meet bi-annually and as needed to address issues including safety and security of the maritime region for which they are responsible – serving 4.8 percent of world cargo tonnage¹⁹.

Recently, MOWCA member states voted to develop a joint continental coast guard. This new force, operational since late 2007, includes the established coast guards of Ivory Coast, Ghana, Nigeria, and Senegal. While the amount of dedicated force is not yet particularly robust, one very important part of the plan includes the right of “hot pursuit” among member state territorial waters – allowing one state to enter the waters of another in the name of international law enforcement.²⁰ This is important in any area where a multinational approach is undertaken, but perhaps nowhere more so than in MOWCA’s area of responsibility, where 20 nations share thin slices of ocean, allowing easy passage from one country’s water to another.

Countries with interests in the maritime shipping security of MOWCA’s area have also pledged assistance, including South Korea, the European Union, Canada, the

¹⁹ Maritime Organization of West and Central Africa, "Capabilities Brochure," *MOWCA*, <http://www.mowca.org/new%20design/mowca.pdf> (accessed April 3, 2009).

²⁰ AMI International Inc., "African Nations to Develop Joint Continental Coast Guard," *Sea Power*, August 2006: p 60.

United Kingdom, and the United States. The greatest success with this endeavor is that it is being undertaken by the states concerned, and all have agreed to contribute to the effort. Legal barriers are minimized and communication levels raised; it is the legal jurisdiction questions that most frequently force a state's hand to set criminals free in this arena²¹ and MOWCA has worked to minimize that impact.

DISCUSSION / ANALYSIS

Envisioning the Ideal Solution

The UN Security Council passed Resolution 1816 in June 2008 calling on member nations with interests in the free communication of trade in the vicinity of Somalia to "cooperate with each other, with the IMO and, as appropriate, with the relevant regional organizations in connection with, and share information about, acts of piracy and armed robbery in the territorial waters and on the high seas off the coast of Somalia."²² Further, in UNSCR 1851 of December 2008, the Security Council "...encourages all states and regional organizations fighting piracy and armed robbery at sea off the coast of Somalia to consider creating a centre in the region to coordinate information relevant to piracy and armed robbery at sea off the coast of Somalia."²³ From these two statements alone it is clear that the UN seeks to spark a coordinated international solution. Additionally in resolution 1851 the Security Council writes that "the lack of capacity, domestic, legislation, and clarity about how to dispose of pirates after their capture, has hindered more robust international action against the pirates off the coast of Somalia and in some cases led to pirates being released without facing

²¹ BBC News, "NATO Foils Somali Pirates' Attack," *BBC News Africa*, April 19, 2009, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/8006827.stm> (accessed April 19, 2009).

²² United Nations Security Council, "Resolution 1816 (2008)," in *5902nd Meeting* (2008), 4.

²³ United Nations Security Council, "Resolution 1851 (2008)," in *6046th Meeting* (2008), 4.

justice.”²⁴ Hence in addition to the coordinated international solution, a body of applicable law is also required.

What are the characteristics of the ideal solution? I proffer that the ideal solution comprises the following attributes. First, it is backed by the United Nations with participating nations pledging full engagement. Second, it is written in a common maritime language and provides for free communication among member countries and their navies at sea. Third, it has a powerful intelligence capability and robust data analysis resources freely shared among its members. And finally, it provides a single-source point of contact for all piracy-related issues in its designated area of operations.

UNSCR 1851 verbiage attempts to set the wheels in motion for the creation of an international piracy coordination center in the region. Several of the existing centers address pieces of the solution as has been discussed. For example, CTF 151, MSC(HOA), EU NAVFOR, and the UKMTO²⁵ all address various aspects of anti-piracy operations in the Gulf of Aden. That there are already so many organizations suggests that sufficient international will exists to curb the problem, but their mere existence does not quantify the international will. Specifically, existing solutions are not completely unifying (as in the case of CTF 151, excluding the Chinese and Russian vessels) or organizations were presumably not chartered to address the entire spectrum of anti-piracy operations (MSC(HOA) for example).

Whichever international body commissions the effort, it must have the power to effect rules conducive to open information sharing. It must also engineer a new, unsecured communications procedure such that navies can speak to one another over

²⁴ *Ibid.*

²⁵ United Kingdom Maritime Trade Organisation.

perhaps commercially-available marine communications without compromising their identities or locations. In traditional coalitions, these means are already in existence – CTF 151 is a primary example. Procedures exist for code-worded communications over unsecured channels and are often based on an Allied Tactical Publication, one of limited release. This works well within the traditional framework when releasability is not an issue, but new additions to the coalition hamstring the process. Merely releasing the publication only partially solves the problem; over the horizon communications remain inaccessible to those lacking coalition cryptographic equipment.

Breaking down the boundary of sharing intelligence with new partners would also be a necessary step for those participating in the ideal solution. Being able to locate pirates and mother ships at sea in near real-time would be essential – in an area covering more than 2.5 million square miles²⁶ time is of the essence as it often takes days to position an asset within range of influencing the situation. Organization members must be willing to share sensitive intelligence data freely and openly with other forces involved in efforts afloat, including signals intelligence, communications intercepts, and possibly even imagery and video from organic unmanned aerial vehicles. This is potentially problematic as new and non-traditional members join anti-piracy efforts under the auspices of UNSCR 1838.^{27, 28}

In addition to real-time information, this successful anti-piracy organization must possess a robust data analysis capability. Mixing MSC(HOA)'s IRTC for tanker and container vessels, ReCAAP's diligent data collection and analysis, and the IMB's

²⁶ James Kraska, "Fighting Piracy," *Armed Forces Journal*, February 2009: 10-37, p. 1.

²⁷ United Nations Security Council, "Resolution 1838 (2008)," in *5987th Meeting* (2008), p. 1.

²⁸ Andrew Scutro, "Others' Anti-Piracy Role is Murky," *Navy Times*, February 2, 2009: p. 13.

historical data analysis capability, the ability to analyze predominant origins of recent activity combined with the ability to redesignate transit lanes dynamically for merchant traffic could be critical. The challenge runs much deeper than that, however – engineering a trip report for vessels to file as a primary means of collecting data, asking shipping companies to register their vessels prior to transit such that a route could be designated, establishing check-in / check-out procedures as ships transit the anti-piracy center’s area of influence, these are a few of the many new and different tasks which would fall to the international community and commercial shipping entities.

Finally, the ideal organization would have the ability and legitimacy to be a single point of contact to the maritime community – the subject matter experts for regional maritime activities. The major difficulty in this endeavor is to break old habits²⁹ of filing transit plans with MSC(HOA), phoning the UKMTO upon sail, and contacting CTF 151 authorities with a follow-up to ReCAAP in the event of a piracy attempt in the Gulf of Aden region.

RECOMMENDATIONS

Based on the framework discussed above, force providers from around the globe with interests in reduced piracy in the Gulf of Aden / Somalia coast region should begin to consider how best to support these renewed efforts. Certainly representatives from the commercial shipping industry would participate as a connection back to parent companies, insurance companies, and cargo owners. The forces involved would also most likely provide a representative, perhaps through liaison officers or by providing coalition leadership to take part in the staff of the new organization.

²⁹ Phil M. Davies, "International Piracy on the High Seas," in *FDCH Congressional Testimony, House Transportation and Infrastructure* (London, 2009), p. 6.

Creation of this ideal solution – a capable anti-piracy solution for the Gulf of Aden and Somalia coast – would force a paradigm shift in international maritime anti-piracy strategy. Instead of several different coalitions and organizations addressing a piece of the solution (CTF 151, EU NAVFOR, UKMTO, and MSC(HOA)) these operational-level commands would work in concert, provide forces and most probably logistics, and work as subordinates to the commander of the new anti-piracy organization. Following the elements of this organization as laid out previously in this paper, where is there room for these operational-level commanders to interject, assist, and best further the efforts and capabilities of the new command?

Operational Commander Interface

The idealized regional piracy center envisioned above can provide benefit without controlling forces, but its impact would be best felt if it were able to do so. There is most certainly a role for operational commanders to interface with this ideal solution.

Once the center is in operation and the maritime community is in the habit of regular communications with it, the new piracy center will be able to build an overall picture of the commercial traffic entering and leaving its area of influence. Assuming that states and coalitions are willing to assign forces to this effort, the center should have the ability to direct those forces to an area of interest. An area of interest could be one that historically has been an area of concentrated piracy activity, one cued by intelligence (perhaps a SIGINT intercept), or one in response to an attack in progress.

Assigning forces to this regional effort would mean restructuring the command and control for CTF 151, EU NAVFOR, UKMTO, and MSC(HOA). These four

organizations are either performing an element of what the ideal solution should do (e.g. MSC(HOA)'s IRTC) or duplicating efforts with independently-controlled forces patrolling the same swathe of water.³⁰ If this ideal solution were to be executed, one or more of the aforementioned organizations could find itself subordinated to the ideal organization or dissolved altogether.

Since intentions would be for a commander from the affected region to assume direction of the efforts under the guise of the previously-described ideal solution, the appropriate relationship for the operational commander would likely be one of support via installed, permanent liaison officer(s). For U.S.-led efforts, this liaison cell would be the result of refocusing CTF 151 efforts and placing forces under this new command. CTF 151 could provide much of the staff to the new organization, elements of AFRICOM – its naval component or perhaps governmental agencies would also be probable participants of the liaison force.

CONCLUDING COMMENT

Maritime piracy is a complex problem and its solution absolutely must be international, with internationality stamped on every action taken. In discussing formation of ReCAAP, research fellow Lim Tai Wei of the East Asian Institute, National University of Singapore, said: "Many of the littoral states are Islamic countries, and they felt very uncomfortable that the U.S., which might have good intentions to combat piracy, had decided to come into the region without much consultation with the littoral states."³¹ This statement clearly suggests that the operational commander tread lightly

³⁰ Maritime Security Center Horn of Africa, *About*, Lloyd's Register - Fairplay, <http://www.mschoa.org/About.aspx> (accessed April 9, 2009).

³¹ Jason Miks, "Asia Tackles Piracy," *World Politics Review*, December 8, 2008: p. 4.

– interface must be on an advisory basis and perhaps even in a supporting role to the organization ultimately created. In addition, care must be taken to establish and maintain regional legitimacy for any new anti-piracy effort.

While the international community initiates effort to organize and synergize new anti-piracy efforts in the Gulf of Aden and elsewhere, great danger exists in viewing the maritime solution as the ultimate solution. All elements of national and international power must continue to be employed to bolster Somalia's transitional government, provide training to its legitimate armed forces, and generally improve the economic situation of the Somali people. Only after these methods are in place and are functional will this long-term strategy be successful.

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